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4 Chapter 7 Trustee

5  
6 **UNITED STATES BANKRUPTCY COURT**  
7 **CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**

8 In re

9 GIRARDI KEESE,

10 Debtor.

Case No. 2:20-bk-21022-BR

Chapter 7

**NOTICE OF CHAPTER 7 TRUSTEE'S  
APPLICATION TO EXPAND SCOPE OF  
SERVICES OF SPECIAL LITIGATION  
COUNSEL**

**[11 U.S.C. §§ 327(c) and (e), 328(a); Fed. R.  
Bankr. P. 2014; Loc. Bankr. R. 2014-1(b)]**

[No Hearing Required Unless Requested]

15  
16 **TO THE HONORABLE BARRY RUSSELL, UNITES STATES BANKRUPTCY**  
17 **JUDGE AND TO ALL PARTIES IN INTEREST:**

18 **PLEASE TAKE NOTICE** that Elissa D. Miller, Chapter 7 Trustee (the "Trustee"), for the  
19 estate of the Debtor Girardi Keese (the "Debtor") has flied an **"APPLICATION TO EXPAND**  
20 **SCOPE OF SERVICES OF SPECIAL LITIGATION COUNSEL, LARRY W. GABRIEL, THE**  
21 **LAW OFFICES OF JENKINS, MULLIGAN & GABRIEL, LLP** (the "Application"), pursuant  
22 to which the Trustee seeks an order of this Court expanding the scope of legal services to be  
23 provided by Larry W. Gabriel, Jenkins, Mulligan & Gabriel, LLP ("Gabriel") on behalf of the  
24 estate to include evaluating and, if appropriate, prosecuting claims or actions (the "Claims") as to  
25 Girardi Keese Litigation Funders, the Girardi Keese Accountants, and Girardi Keese outside legal  
26 counsel (the "Target Parties").

27 **PLEASE TAKE FURTHER NOTICE** that the Trustee is retaining Gabriel as her Special  
28 Litigation Counsel to assist with the investigation and undertake such proceedings and/or actions

1 as may be appropriate in connection with investigating, objecting to, reducing and recovering  
2 estate property and filing such proceedings and/or actions as are appropriate in connection with the  
3 Claims.

4 **PLEASE TAKE FURTHER NOTICE** that the Trustee proposes to retain Gabriel on the  
5 on a mixed hourly rate and contingency fee as follows:

6 1. For the evaluation of the claims against the Target Parties, Gabriel will bill the  
7 estate for the time incurred, at the hourly rate of \$500.00 per hour for partner services, \$250.00 per  
8 hour for associate services and \$100 per hour for work performed by law clerks.

9 2. The hourly fee arrangement will continue until the evaluation is completed and the  
10 Trustee has made a decision to prosecute a claim against one or more of the Target Parties. At that  
11 point in time, the retention will convert to a contingency fee arrangement as follows:

12 3. 30% of the Net Recovery (defined as the gross recovery less costs repaid, less the  
13 amount of hourly fees billed) if the claim is resolved prior to 60 days prior to a jury or bench trial;

14 4. 40% of the Net Recovery should the matter be resolved less than 60 days prior to a  
15 jury or bench trial, or upon obtaining a final judgment entered after trial;

16 5. In the event a claim filed against a Funding Lender results in the equitable  
17 subordination of the Funding Lender's claim or a reduction in the Funding Lender's claim amount,  
18 without a cash component, Gabriel shall be entitled to the Firm's hourly rate fee as described  
19 above for the entire matter. In the event there is a cash component to the settlement or judgment  
20 as to any Funding Lender, Gabriel shall be entitled to the contingency fee of 25% of the cash  
21 component in addition to his hourly rate, subject to approval of the court as provided for in 11  
22 U.S.C. 328 (a). Gabriel understands that any and all fees and expenses sought or requested by, or  
23 paid to, Gabriel is subject to Bankruptcy Court approval and in the amounts approved by the  
24 Bankruptcy Court upon proper application in accordance with the Bankruptcy Code, the  
25 Bankruptcy Rules, the Local Rules of this Court and any other applicable law and guidelines.

26 **PLEASE TAKE FURTHER NOTICE** that upon entry of the order approving this  
27 Application, the Trustee shall pay to Gabriel from unencumbered funds, a \$10,000 retainer to be  
28 used solely for the reimbursement of its out-of-pocket costs pursuant to the procedures set forth

1 herein. Gabriel will provide informational bills to Trustee not less than bi-monthly. Following  
2 review of the billing, Client will advise Attorney whether it has any objection to the payment of  
3 costs from the retainer. If not, Attorney may draw down on the retainer for payment of costs. If  
4 Client objects, Attorney may request allowance either immediately from the court or at the time it  
5 files its final fee application. Replenishment of said retainer may only be incurred for this  
6 engagement as approved by the Court. No other retainer has been paid or is being proposed to  
7 Gabriel other than the aforementioned retainer.

8 **PLEASE TAKE FURTHER NOTICE** that other than the fees and costs to be paid to  
9 Gabriel as set forth herein, Gabriel shall have no claims against the estate.

10 **PLEASE TAKE FURTHER NOTICE** that any party wishing to obtain a copy of the  
11 Application may do so by contacting the Trustee in writing at the address or e-mail on the upper  
12 left-hand corner of this Notice.

13 **PLEASE TAKE FURTHER NOTICE** that if you do not oppose the Application, you  
14 need not take any further action. However, any objection and request for hearing, in the form  
15 required by Local Bankruptcy Rule 9013-1(f), must be filed with the Court and served on the  
16 Trustee and the Office of the United States Trustee, located at 915 Wilshire Blvd., Suite 1850, Los  
17 Angeles, CA 90017, not later than 14 days, plus three additional days for service by mail or  
18 pursuant to F.R.Civ.P. 5(b)(2)(D) or (F), after the date of service of this notice.

19 **PLEASE TAKE FURTHER NOTICE** that failure to timely file and serve such response  
20 and request for hearing may result in any response being deemed waived and the Court entering an  
21 order approving the Application without hearing a pursuant to Local Bankruptcy Rules 2014-1 and  
22 9013-1.

23 DATED: February 15, 2022

Respectfully submitted,

24 /s/ Elissa D. Miller

25 Elissa D. Miller  
26 Chapter 7 Trustee

27 Date of Mailing: February 15, 2022  
28

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 333 South Grand Avenue, Suite 3400, Los Angeles, CA 90071.

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF CHAPTER 7 TRUSTEE'S APPLICATION TO EXPAND SCOPE OF SERVICES OF SPECIAL LITIGATION COUNSEL** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) February 15, 2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

**See Attached ECF List**

☒ Service information continued on attached page.

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) February 15, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Barry Russell  
U.S. Bankruptcy Court  
Roybal Federal Building  
255 E. Temple Street, Suite 1660  
Los Angeles, CA 90012

☐ Service information continued on attached page.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

February 15, 2022  
*Date*

Cheryl Caldwell  
*Printed Name*

/s/Cheryl Caldwell  
*Signature*

**ADDITIONAL SERVICE INFORMATION (if needed):**

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

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TSO LFG HOLDCO LLP  
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**REQUEST FOR SPECIAL NOTICE**

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